

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re: : Chapter 11

:
BRACHA CAB CORP., et al. : Bankruptcy Case No.1-17-46613(NHL)

:
: District Court No. 1:19-cv-04077-KAM

:
: **APPELLANT'S DESIGNATION OF**

: **RECORD AND STATEMENT OF**

: **ISSUES ON APPEAL FROM**

: **BANKRUPTCY COURT**

:
: Jointly Administered

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<u>Bankruptcy Docket No.</u>	<u>Date Entered In the Bankruptcy Docket</u>	<u>Description</u>
1	12/08/2017	Chapter 11 Petition
3	12/12/2017	Meeting of Creditors
9	12/15/2017	Motion for Joint Administrator
12	12/19/2017	Exhibit Amended
16	1/19/2018	Order Granting Motion for Joint Administration
23	2/13/2018	Motion for Relief from Stay
24	2/13/2018	Declaration filed by Capital One Equipment Finance Corp.
25	2/13/2018	Declaration filed by Capital One Equipment Finance Corp.
26	2/13/2018	Memorandum of Law
29	2/16/2018	Motion to Use Cash Collateral
31	2/27/2018	Objections of Capital One Equipment Finance Corp. to Motion for Use of Cash Collateral
34	2/28/2018	Response in Support of Motion for Relief from Stay
36	3/1/2018	Reply Memorandum of Law
40	3/8/2018	Response to Motion to Relief from Stay
41	3/8/2018	Reply in Support of Motion for Use of Cash Collateral
45	3/12/2018	Motion for Relief from Stay
47	3/16/2018	Transcript and Notice for March 9, 2018
51	4/6/2018	Motion to Extend Exclusivity Period
54	4/18/2018	Objections to Motion to Extend Exclusivity Period
56	4/19/2018	Opposition Response and Objections to

		Motion to Extend Exclusivity Period
68	5/25/2018	Adversary Case 1-18-01064 Complaint
88	10/5/2018	Mediation Order
90	10/21/2018	Stipulation and Mediation Order
92	11/16/2018	Mediation Report
111	6/3/2019	Motion to Compromise Controversy
112	6/3/2019	Amended Exhibit A to Motion to Compromise Controversy
116	6/20/2019	Objections to Motion to Compromise Controversy
118	6/25/2019	Affidavit in Support of Motion to Compromise Controversy
119	6/25/2019	Response in Support of Motion to Compromise Controversy
122	6/25/2019	Response and Reservation of Rights
125	6/30/2019	Order Authorizing and Approving Settlement Agreement
126	7/1/2019	Transcript
127	7/2/2019	Letter Requesting Disclosure of Ex Parte Submission of Proposed Order by Counsel for Debtors
128	7/2/2019	Response Letter
129	7/2/2019	Letter Requesting Disclosure of Ex Parte Submission of Proposed Order by Counsel for Debtors
131	7/12/2019	Notice of Appeal
132	7/12/2019	Proposed Civil Cover Sheet

STATEMENT OF ISSUES

1. Whether the Bankruptcy Court erred in failing to abide by Federal Rules of Bankruptcy Procedure Rule 9019 in granting the Motion to Compromise the Claim?
2. Whether the Bankruptcy Court erred in accepting an unsupported representation of purported authority by a third-party non-debtor to fund the settlement agreement when the ownership of said funds was the subject of on-going litigation and prior decisions of the New York Supreme Court, New York County, Commercial Division and the Supreme Court Appellate Division, First Judicial Department, which refuted that unsupported representation of purported authority?
3. Whether the Bankruptcy Court erred in finding that the co-Executor could unilaterally act on behalf of the Estate of Jacob Elberg and enter into the settlement agreement that was the subject of the Motion to Compromise Claim when her fellow co-Executor objected to her actions and further objected to the Motion to Compromise the Claim?

4. Whether the Bankruptcy Court erred by granting the Motion to Compromise the Claim when the Estate of Jacob Elberg was a party to the settlement agreement that was the subject of the Motion to Compromise Claim and the Estate had failed to obtain or even seek the permission of the Kings County Surrogate's Court to enter into the settlement agreement?
5. Whether the Bankruptcy Court erred by not requiring counsel for the Debtors to disclose its *ex parte* submission of a second proposed Order granting the Motion to Compromise the Claim, which was not uploaded with notice to all parties in accordance with the Bankruptcy Court's CM/ECF procedures and Judge Nancy Hershey Lord's procedures?
6. Whether the Bankruptcy Court erred after receiving the *ex parte* submission of a proposed Order by not disclosing same to all parties to the action?

Dated: July 26, 2019

Yours etc.,
ABRAMS, FENSTERMAN, FENSTERMAN,
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*Attorneys for Ruben Elberg, individually, as the Co-
Executor of the Estate of Jacob Elberg, as a
creditor, as member of Royal One Real Estate LLC
and Royal Real Estate Management LLC and as a
co-Owner of Jarub Trans. Corp.*